



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 692-02
22 May 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 May 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 15 July 1988 at the age of 17. Your record reflects that you served for two years and five months without disciplinary incident but during the period from 25 January to 18 October 1991 you received nonjudicial punishment (NJP) on four occasions for failure to pay just debts, drunkenness, four specifications of failure to obey a lawful order, and two specifications of disorderly conduct. On 20 December 1991 you were convicted by special court-martial (SPCM) of dereliction in the performance of your duties, communicating a threat, and theft of military property. You were sentenced to confinement for four months, a \$3,012 forfeiture of pay, and reduction to paygrade E-1.

On 3 February 1992 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. On 10 July 1992 your commanding officer recommended an other than honorable discharge by reason of misconduct due to commission of a serious offense, and on 25

August 1992 the discharge authority directed an other than honorable discharge by reason of misconduct. On 11 September 1992 you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that your overall service and commitment to duty far outweighed your youthful indiscretions. It also considered your contention that your troubles were the result of inappropriate and discriminatory behavior on the part of your superiors. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge or a change of your reenlistment code because of the seriousness of your repetitive misconduct, which resulted in four NJPs and a court-martial conviction. Further, an individual separated by reason of misconduct must receive an RE-4 reenlistment code. The Board noted that there is no evidence in the record, and you submitted none, to support your contention of inappropriate or discriminatory behavior from your superiors. Additionally, on 7 April 1992, the Naval Inspector General found that your allegations were unsubstantiated. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director